UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,563	08/30/2001	Maria-Jose Arbulu Barturen	FR920010023US1	2529

46590	7590	08/11/2006	EXAMINER

MYERS BIGEL SIBLEY SAJOVEC P.A.
PO BOX 37428
RALEIGH, NC 27627

PHAM, CHRYSTINE

ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>15 June 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-17*.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☒ Other: <u>See Continuation Sheet</u>.

Continuation of 13. Other:
Claim 1 has been amended to include the limitation "a fourth sub-system for recording information provided by at least one of the first through third sub-systems of the integrated data processing system during delivery of the software product", which changes the scope of the claims, thus requires further consideration and/or search.

Furthermore, examiner notes that:

Applicants essentially assert that the current rejection of claim 1 (Office Action dated May 23, 2006), which cites col.2:53-56, col.3:20-32, col.4:15-67, col.8:47-57, FIG.1 & associated text in addition to client server 216 of FIG.2A (previously cited in Office Action dated Jan. 30, 2006) constitutes "new grounds" of rejection and "were not necessitated by any amendments to the claims made by Applicants ... As such, designation of the rejections as 'Final' was premature" (Remarks, pages 5-6, under section I). The Examiner respectfully disagrees. As an initial matter, these portions were cited in the Final Office Action to address Applicants' previously-submitted argument that "Goiffon does not disclosed 'delivery of software products to target software product execution units" (see Final Office Action, pages 2-4). In other words, these portions were cited to provide the justification or clarification that the Applicants were seeking and they only serve to clarify the same feature (i.e., client server 216 of FIG.2A) that has been established as anticipating the claimed "delivery of software products to target software product execution units". Thus, Applicants' argument is not persuasive.

With respect to the last clause, which is being moved from claim 7 into claim 1, Applicants assert that Goiffon does not teach "a fourth sub-system for recording information provided by at least one of the first through third sub-systems ... during delivery of the software product". First, as established in the Final Office Action and above, Goiffon clearly anticipates "delivering the software products to target software product execution units". It should be noted that the very act of delivering the software product (i.e., package), which has been built (i.e., created) from different elements from the previous steps (i.e., sub-systems), to be installed and executed on the target software product execution units clearly anticipates a sub-system (i.e., step) of "recording information provided by the previous steps" since it is inherent that the information (i.e., software package/product) has to be recorded (i.e., installed) in the target units before it can be executed. Furthermore, contrary to Applicants' argument that line 240 of FIG.2B does not teach recording information during the delivery of the software product, as shown in FIG.2B, line 240 connects with line 227, which in turn connects the AIM server 214 to the Client server 216 as shown in FIG.2A. More specifically, line 240 faciliates the importing and exporting of software packages between the import/export files repositories residing on both the client server 216 and AIM server 214. Needless to say, the "recording" of information (i.e., software package) is inherent in the step of importing the software package from the AIM server to that of the Client server.

With respect to claim 12, Applicants further argue that "Goiffon does not teach storing the built software product in the central repository" (Remarks, page 7, last paragraph). However, as established in the Final Office Action (page 6), step 1024 of FIG.10, steps 1808-1816 of FIG.18A and step 1828 of FIG.18B clearly disclose the steps of building the software product (i.e., Element Package) and storing the built software product in the Element Repository 102 which is part of the AIM server 214 of FIG.2B. In FIG.2A & associated text, Goiffon clearly teaches the client server 216 providing a user interface to AIM server 214. Since the Element Repository resides on the server 214, which is inherently central, the Element Repository 102 clearly anticipates the claimed "central repository".

Applicants further argue that "Goiffon does not disclose storing the installable software product in a second repository" (Remarks, page 8, second to last paragraph). However, in FIG.1 & associated text, Goiffon clearly teaches the Element Inventory 102 is supported using functions provided by Inventory Administration 104. These support functions include the backup facilities used to make a copy of selected elements, and restore facilities used to restore an existing saved copy of an element to the Element Inventory. The administration functions further include export and import operations provided to exchange information between the Element Inventories of one or more remote Object Management Systems such as that shown as Remote Object Manage System 107. The export function provides a copy of an element to the remote system. Thus contrary to Applicants' argument, the exporting an element package to the Element Inventory 102 of a Remote Object Management System 107 clearly anticipates "storing the installable software product in a second repository".

TUAN DAM
SUPERVISORY PATENT EXAMINER